

**STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD**

DIVISION OF WATER RIGHTS

In the Matter of Permit 16373 (Application 23795)

Maple Grove Mutual Water Company

**ORDER APPROVING EXTENSION OF TIME AND AMENDING
THE PERMIT**

SOURCE: Wixon Spring and an Unnamed Spring

COUNTY: Sierra

WHEREAS:

1. Permit 16373 was issued to Mosco F. Smart on February 29, 1972, pursuant to Application 23795 and subsequently assigned to Maple Grove Mutual Water Company.
2. A petition for an extension of time within which to develop the project and apply the water to the proposed use was filed with the State Water Resources Control Board (SWRCB) on December 6, 2000.
3. The permittee has proceeded with diligence and good cause has been shown for an extension of time. Public notice of the request for an extension of time was issued on October 19, 2001, and no protests were received.
4. The SWRCB has determined that the petition for an extension of time does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5. The SWRCB has determined that a condition requiring measuring and reporting use of water should be added to the permit.
6. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A condition should be placed in the permit making the permittee aware of possible obligations resulting from these acts.

7. There is the possibility that buried archeological deposits may be present and accidental discovery could occur. In compliance with the California Environmental Quality Act, which states that a Lead Agency is required to make a provision for historical or unique archeological resources accidentally discovered during construction or operation of projects, a condition should be included in the permit requiring notification of the Chief of the Division of Water Rights if project activities uncover any buried archeological materials.

NOW, THEREFORE, IT IS ORDERED THAT PERMIT 16373 IS AMENDED TO READ AS FOLLOWS:

1. Condition 9 of the permit be amended to read:

Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2011.

(0000009)

2. Permit 16373 is amended to include the following Endangered Species condition:

This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

3. Permit 16373 is amended to include the following Archeological condition:

Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; old trails; and structure and feature remains such as building

foundations and dumps. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the applicant to evaluate the find and recommend appropriate mitigation. Project related activities in the area of the find shall resume only after the completion of the recommended mitigation, as approved by the Chief of the Division of Water Rights.

(0000215)

4. A condition requiring measuring and reporting use of water shall be added to Permit 16373 as follows:


Permittee shall install and maintain devices satisfactory to the SWRCB to measure the daily and cumulative quantity of water diverted under this permit. A record of such measurements shall be maintained by the permittee, and made available to interested parties upon reasonable request. A copy of the records shall be submitted to the SWRCB with the annual "Progress Report by Permittee".

(000000R)

5. All other conditions of Permit 16373 are still applicable.

Dated: JAN 25 2002

STATE WATER RESOURCES CONTROL BOARD


for Chief, Division of Water Rights

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 23795

PERMIT 16373

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE
AND AMENDING THE PERMIT

WHEREAS:

1. A petition for extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
2. It appears that the permittee has proceeded with diligence and that good cause has been shown for extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Paragraph 8 of the permit is amended to read as follows:

CONSTRUCTION WORK SHALL BE COMPLETED
ON OR BEFORE

December 1, 1984

2. Paragraph 9 of the permit is amended to read as follows:

COMPLETE APPLICATION OF THE WATER
TO THE PROPOSED USE SHALL BE
MADE ON OR BEFORE

December 1, 1984

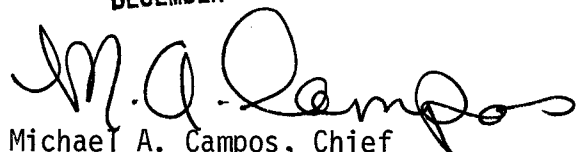
3. Paragraph 11 of the permit is deleted. A new Paragraph 11 is added to read as follows:

Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be

required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

Dated: DECEMBER 20 1979

A handwritten signature in dark ink, appearing to read "M. A. Campos", written in a cursive style.

Michael A. Campos, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 23795

PERMIT 16373

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE, AND AMENDING THE PERMIT

WHEREAS:

1. A petition for extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
2. The permittee has proceeded with diligence and good cause has been shown for extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Paragraph 8 of the permit is amended to read as follows:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE

December 31, 1994

2. Paragraph 9 of the permit is amended to read as follows:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 1995

3. Paragraph 11 of this permit is deleted. A new paragraph 11 is added as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken

pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

Dated: MAY 13 1987

Raymond Walsh

Raymond Walsh, Chief
Division of Water Rights

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT No. 16373

Notice of Change (Over)

Application 23795 of MOSCO F. SMART

P. O. BOX 94, SIERRA CITY, CALIFORNIA 96125

filed on JUNE 2, 1971, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

(1) WIXON SPRING

(1) UNNAMED STREAM THENCE

NORTH YUBA RIVER

(2) UNNAMED SPRING

(2) UNNAMED STREAM THENCE

NORTH YUBA RIVER

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
(1) NORTH 1,200 FEET AND WEST 750 FEET FROM E1/4 CORNER OF SECTION 28, T20N, R12E, MDB&M	SE 1/4 of NE 1/4	28	20N	12E	MD
(2) NORTH 1,200 FEET AND WEST 1,000 FEET FROM E1/4 CORNER OF SECTION 28, T20N, R12E, MDB&M	SE 1/4 of NE 1/4	28	20N	12E	MD
	1/4 of 1/4				
	1/4 of 1/4				
	1/4 of 1/4				
	1/4 of 1/4				

County of SIERRA

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
DOMESTIC	SE1/4 OF SE1/4	28	20N	12E	MD	

The place of use is shown on map filed with the State Water Resources Control Board.

Permit 16373

Application 23795

10/3/75 Assigned to Maple Grove Mutual Water Company

5. The water appropriated shall be limited to the quantity which can be beneficially used, and shall not exceed 0.02 CUBIC FOOT PER SECOND TO BE DIVERTED FROM JANUARY 1 TO DECEMBER 31 OF EACH YEAR. THE MAXIMUM AMOUNT DIVERTED UNDER THIS PERMIT SHALL NOT EXCEED 10 ACRE-Feet PER YEAR.

THE EQUIVALENT OF THE CONTINUOUS FLOW ALLOWANCE BY DIRECT DIVERSION FOR ANY 30-DAY PERIOD MAY BE DIVERTED IN A SHORTER TIME IF THERE BE NO INTERFERENCE WITH VESTED RIGHTS.

(0000005)

6. The maximum quantity herein stated may be reduced in the license if investigation warrants.

(0000006)

7. Actual construction work shall begin on or before nine months from date of permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked.

(0000007)

8. Said construction work shall be completed on or before DECEMBER 1, 1973.

(0000008)

9. Complete application of the water to the proposed use shall be made on or before DECEMBER 1, 1974.

(0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued.

(0000010)

11. All rights and privileges under this permit including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

(0000012)

12. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

14. NO WATER SHALL BE DIVERTED FOR USE BY PERMITTEE UNTIL A MEASURING DEVICE SATISFACTORY TO THE STATE WATER RESOURCES CONTROL BOARD HAS BEEN INSTALLED IN ORDER THAT ACCURATE MEASUREMENT CAN BE MADE OF THE QUANTITY OF WATER DIVERTED FOR HIS USE. THEREAFTER, SUCH DEVICE SHALL BE PROPERLY MAINTAINED.

(0060062)

15. THIS PERMIT SHALL NOT BE CONSTRUED AS CONFERRING UPON THE PERMITTEE RIGHT OF ACCESS TO THE POINT OF DIVERSION.

(0000022)

This permit is issued and permittee takes it subject to the following provisions of the Water Code.

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: FEB 29 1972

STATE WATER RESOURCES CONTROL BOARD

K. L. Woodward
Chief, Division of Water Rights